

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.33919 of 2020

Nilamani Mohapatra and others *Petitioners*
Mr. B.S. Tripathy-1, Advocate
-versus-

State of Odisha and others *Opposite Parties*
Mr. S. Jena,
Standing Counsel S & ME

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
11.02.2022

Order No.

W.P.(C) No.33919 of 2020 & I.A. No.19217 of 2021

05. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel appearing for the Petitioners and learned Standing Counsel for the State.
3. The present writ petition has been filed by the Petitioners challenging the mentioning date of joining of the Petitioners in T.G. post as 02.08.1997 and further it has been prayed that a direction be issued to the Opposite Party No.2 to reflect the date of joining in T.G. post as the initial date of joining of the Petitioners and also the Petitioners seek for a direction to the Opposite Party No.2 to consider and give promotion to the Petitioners to the post of Sr. SES Teachers considering the initial date of joining as entry into service by placing the Petitioners in proper place in the gradation list.
4. Mr. B.S. Tripathy, learned counsel appearing for the Petitioners submits that the Government has taken a decision vide

letter dated 25.01.2019 wherein it has been decided to implement the decision of the learned Orissa Administrative Tribunal dated 05.05.2018 in supersession of the earlier order dated 02.08.1997 and accordingly the services of the Petitioners have been regularized from the date of their initial appointment. Such a decision was taken by the Government pursuant to the order passed by the Orissa Administrative Tribunal in O.A. No.1735(C) of 2004 and batch of cases wherein the Tribunal had directed the opposite parties to take appropriate action and to regularize the services of applicants from the date of their initial appointment with all consequential benefits.

5. Mr. Tripathy, learned counsel for the Petitioners further submits that so far as the present Petitioners are concerned, pursuant to the order of the Tribunal, the services of the Petitioners have been regularized but there is a dispute with regard to the date of joining of the Petitioners as indicated in the gradation list on the basis of date of joining as accepted and indicated by the Government. He further submits that the date of joining as indicated in the gradation list has not been corrected and the same is not based on the materials available on record.

6. Mr. S. Jena, learned Standing Counsel appearing for the School and Mass Education Department submits that the gradation list has not yet been finalized. While finalizing the gradation list, objections have been invited from the teachers and he further submits that only after due consideration of such objections, the gradation list shall be finalized by the Government.

7. In this context Mr. Tripathy draws the attention of this Court to the order dated 07.12.2021 wherein the Joint Director (G.S.) has issued a circular notice in respect of provisional gradation list of Jr. SES Teachers of Government Secondary Schools (including taken

over High Schools, Ex-ULB High Schools and taken over Police High Schools) intimating that the provisional gradation list of the year 2021 has been published. Further in the very same letter, after publication of the provisional gradation list, objections have been invited from the Jr. SES Teachers which is required to be routed through the concerned Headmasters of the schools and to reach to the office of the Joint Director positively by 10.12.2021. Vide letter dated 07.12.2021, DEOs have also been directed to submit objections so received from the Headmasters along with copies of supporting papers/documents duly signed by DEOs to the Directorate by 13.12.2021 positively. It has also been stated in the said letter that the objections received after due date shall not be entertained.

8. Mr. Tripathy, learned counsel appearing for the Petitioner further submits that a similar provisional gradation list was earlier challenged before this Court in W.P.(C) No.22692 of 2020. Wherein this Court had earlier given direction to consider the representation of the petitioners before finalizing the provisional gradation list of the year 2020.

9. It is submitted by Mr. S. Jena, learned Standing Counsel for School and Mass Education Department that the provisional gradation list of the year 2020 has not been finalized till date.

10. It is further submitted by Mr. Tripathy that objection at the instance of the Petitioners has also been filed in respect of the provisional gradation list of the year 2020 as well as of the year 2021. However, the authorities have not taken any decision for preparation of final gradation list.

11. Mr. S. Jena, learned Standing Counsel for School and Mass Education Department at this stage submits that if a direction is given to the Director of Secondary Education, Odisha, Bhubaneswar-

Opposite Party No.2 to consider the representation of the Petitioners before finalizing the provisional gradation list of the Petitioners, the same shall be considered in accordance with law keeping in view the relevant rules as well as instructions within a stipulated period of time.

12. Having heard learned counsel for the parties, this Court deems it proper that instead of keeping the matter pending here, the matter can very well be remitted back to the competent authority to consider the objections filed in respect of provisional gradation list and finalize the objection in accordance with law and to publish the final gradation list within a stipulated period of time which would serve the ends of justice.

13. In such view of the matter, the writ petition as well as I.A. is disposed with a direction to the Director of Secondary Education, Odisha, Bhubaneswar-Opposite Party No.2 to consider the objection/representation filed by the Petitioners in respect of the provisional gradation list of the year 2021 so far as the Jr. SES Teachers are concerned within a period of twelve weeks from the date of production of a certified copy of this order. It is needless to mention here that while taking decision in the matter, the Director of Secondary Education, Odisha, Bhubaneswar shall consider the letter under Annexure-2 as well as the order of the Tribunal passed in O.A. No.1735(C) of 2004 and any other documents/records to be produced by the Petitioners at the time of consideration and the representation of the Petitioners shall be considered and disposed of by passing a speaking and a reasoned order on the same. The decision taken on the same shall be communicated to the Petitioners within a period of ten days thereafter.

14. It is further expected of the Opposite Parties that the promotion from the gradation list shall be made only after finalization of the gradation list.
15. With the aforesaid observation, the writ petition is disposed.
16. Urgent certified copy of this order be granted on proper application.

Jagabandhu

(*A.K. Mohapatra*)
Judge

